

**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Filed Against:

Case No.: VN-2005-1283

ALEA SHARMANE FULTZ
750 E. Puente Street
Covina, CA 91723

**DEFAULT DECISION
AND ORDER**

Vocational Nurse License No. VN 186791

Respondent.

Alea Sharmane Fultz ("Respondent") was served Accusation No. VN-2005-1283; Statement to Respondent; Notice of Defense form; copies of Government Code sections 11507.5, 11507.6 and 11507.7; and Request for Discovery by both first class and certified mail on November 4, 2008 at her address of record as provided in sections 11503 and 11505 of the Government Code of the State of California.

Respondent failed to file a Notice of Defense within the time specified in Government Code section 11506.

The Board of Vocational Nursing and Psychiatric Technicians ("Board") has determined that Respondent has waived her rights to a hearing to contest the merits of the Accusation and that the Board will take action on the Accusation without a hearing, pursuant to Government Code section 11520.

The Board makes the following findings of fact:

FINDINGS OF FACT

1. Teresa Bello-Jones, J.D., M.S.N., R.N., made and filed the Accusation solely in her capacity as the Board's Executive Officer.

2. On December 22, 1998, the Board issued Vocational Nurse License Number VN 186791 to Respondent. Said license expired on June 30, 2008 and has not been renewed.

3. Pursuant to Business and Professions Code section 2875, the Board may discipline any licensed vocational nurse for any reason provided in Article 3 of the Vocational Nursing Practice Act.

1 4. Pursuant to Business and Professions Code section 118(b), the expiration of a
2 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
3 period within which the license may be renewed, restored, reissued, or reinstated. Under Business
4 and Professions Code section 2892.1, the Board may renew an expired license at any time within
5 four years after the expiration.

6 5. Respondent has subjected her license to discipline under Business and
7 Professions Code sections 490 and 2878(f), and California Code of Regulations, title 16, section
8 2521, in that Respondent was convicted of crimes substantially related to the qualifications,
9 functions or duties of a licensed vocational nurse, as described in Accusation No. VN-2005-1283, a
10 copy of which is attached as Exhibit "1" and incorporated by reference.

11 6. Respondent has subjected her license to discipline under Business and
12 Professions Code sections 2878(a) and 2878.5(e), in that Respondent falsified and/or made grossly
13 incorrect entries in hospital and patient records pertaining to controlled substances and dangerous
14 drugs, as described in Accusation No. VN-2005-1283.

15 7. Respondent has subjected her license to discipline under Business and
16 Professions Code section 2878(a), as defined in section 2878.5(a), in that Respondent obtained
17 controlled substances by fraud or deceit, as described in Accusation NO. VN-2005-1283.

18 8. Respondent has subjected her license to discipline under Business and
19 Professions Code sections 2878(a) and 2878(j), in that Respondent committed dishonest acts, as
20 described in Accusation No. VN-2005-1283.

21 **DETERMINATION OF ISSUES**

22 Based on the foregoing Findings of Fact, Respondent has subjected her license to
23 discipline under Business and Professions Code sections 490, 2878(a), 2878(e), 2878(f), 2878(j),
24 2878.5(a) and California Code of Regulations, title 16, section 2521.

25 **LOCATION OF RECORD**

26 The record on which this Default Decision is based is located at the Sacramento office
27 of the Board of Vocational Nursing and Psychiatric Technicians.

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ORDER

WHEREFORE, the Board of Vocational Nursing and Psychiatric Technicians makes the following order:


Vocational Nurse License Number VN 186791 authorizing Respondent to act as a vocational nurse is hereby revoked.

Respondent shall have the right to petition for reinstatement of the aforesaid license pursuant to the provision of section 2878.7(a)(1) of the Business and Professions Code.

Respondent shall not be deprived of making any further showing by way of mitigation; however, such showing must be made directly to the Board of Vocational Nursing and Psychiatric Technicians, 2535 Capitol Oaks Drive, Suite 205, Sacramento, California, 95833 prior to the effective date of this Decision.

This Default Decision shall become effective on March 28, 2009.

Dated and signed February 26, 2009.


John P. Vertido, L.V.N.
President

Attachments: Exhibit "1", Accusation No. VN-2005-1283 and Declaration of Service

Exhibit "1"
Accusation No. VN-2005-1283 and Declaration of Service

NOV 04 2008

Board of Vocational Nursing
and Psychiatric Technicians

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**BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC
TECHNICIANS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2005-1283

ALEA SHARMANE FULTZ
750 E. Puente Street
Covina, CA 91723

ACCUSATION

Vocational Nurse License No. VN 186791

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Bureau of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.
2. On or about December 22, 1998, the Bureau of Vocational Nursing and Psychiatric Technicians (Bureau) issued Vocational Nurse License No. VN 186791 to Alea Sharmane Fultz (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to the charges brought herein and expired on June 30, 2008.

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JURISDICTION

3. This Accusation is brought before the Director of Consumer Affairs (Director) for the Bureau, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 101.1, subdivision (b), states:

"(1) In the event that any board, as defined in Section 477, becomes inoperative or is repealed in accordance with the act that added this section, or by subsequent acts, the Department of Consumer Affairs shall succeed to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed or made inoperative of that board and its executive officer.

"(2) Any provision of existing law that provides for the appointment of board members and specifies the qualifications and tenure of board members shall not be implemented and shall have no force or effect while that board is inoperative or repealed. Every reference to the inoperative or repealed board, as defined in Section 477, shall be deemed to be a reference to the department."

5. Section 118(b) of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1 of the Code, the Board may renew an expired license at any time within four years after the expiration.

6. Section 150 states: "The department is under the control of a civil executive officer who is known as the Director of Consumer Affairs."

7. Section 477 states:

"As used in this division:

(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

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1 8. Section 490 of the Code provides, in pertinent part, that the Board may
2 suspend or revoke a license when it finds that the licensee has been convicted of a crime
3 substantially related to the qualifications, functions or duties of a licensed vocational nurse.

4 9. Section 2875 of the Business and Professions Code (Code) provides, in
5 pertinent part, that the Board may discipline the holder of a vocational nurse license for any
6 reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice
7 Act.

8 10. Section 2878 of the Code states:

9 "The Board may suspend or revoke a license issued under this chapter [the
10 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)) for any of the following:

11 "(a) Unprofessional conduct, which includes, but is not limited to, the
12 following:

13

14 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or
15 abetting the violating of, or conspiring to violate any provision or term of this chapter.

16

17 "(f) Conviction of a crime substantially related to the qualifications, functions,
18 and duties of a licensed vocational nurse, in which event the record of the conviction shall be
19 conclusive evidence of the conviction.

20

21 "(j) The commission of any act involving dishonesty, when that action is
22 related to the duties and functions of the licensee."

23 11. Section 2878.5 of the Code states:

24 In addition to other acts constituting unprofessional conduct within the meaning
25 of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person
26 licensed under this chapter to do any of the following:

27 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by
28 a licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish

1 or administer to another, any controlled substance as defined in Division 10 of the Health and
2 Safety Code, or any dangerous drug as defined in Section 4022.

3
4 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible
5 entries in any hospital, patient, or other record pertaining to narcotics or dangerous drugs as
6 specified in subdivision (b)."

7 12. Health and Safety Code section 11173, subdivision (a) states:

8 "(a) No person shall obtain or attempt to obtain controlled substances, or procure
9 or attempt to procure the administration of or prescription for controlled substances, (1) by fraud,
10 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

11 REGULATORY PROVISIONS

12 13. California Code of Regulations, title 16, section 2521, states:

13 "For the purposes of denial, suspension, or revocation of a license pursuant to
14 Division 1.5 (commencing with Section 475) of the Business and Profession Code, a crime or act
15 shall be considered to be substantially related to the qualifications, functions or duties of a
16 licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a
17 licensed vocational nurse to perform the functions authorized by his license in a manner
18 consistent with the public health, safety, or welfare."

19 COST RECOVERY

20 14. Section 125.3 of the Code provides, in pertinent part, that the Board may
21 request the administrative law judge to direct a licentiate found to have committed a violation or
22 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
23 and enforcement of the case.

24 15. CONTROLLED SUBSTANCES

25 a. "Dilaudid," is a trade name for Hydromorphone. It is a Schedule II
26 controlled substance as defined in Health and Safety Code section 11055, subdivision (b)(1)(K)
27 and is categorized as a dangerous drug according to Business and Professionals Code section
28 4022.

1 b. "Vicodin," is a trade name for Hydrocodone or Dihydrocodeinone. It is a
2 Schedule III controlled substance as defined in Health and Safety Code section 11056,
3 subdivision (e) and is categorized as a dangerous drug according to Business and Professionals
4 Code section 4022.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Convictions of Substantially Related Crimes)**

7 16. Respondent is subject to disciplinary action under Code section 490,
8 section 2878, subdivision (f), and California Code of Regulations, title 16, section 2521, in that
9 Respondent was convicted of crimes substantially related to the qualifications, functions or
10 duties of a licensed vocational nurse, as follows:

11 a. On or about July 22, 2008, after pleading nolo contendere, Respondent
12 was convicted of one misdemeanor count of violating Health and Safety Code section 11366.5(a)
13 (maintaining a location for the distribution or manufacturing of a controlled substance) in the
14 criminal proceeding entitled *The People of the State of California v. Alea Sharmane Fultz*
15 (Super. Ct., San Bernardino County, 2008, No. FWV038545). Respondent was ordered to serve
16 180 days in a San Bernardino County Jail Facility and placed on probation for a period of three
17 (3) years. The circumstances surrounding the conviction occurred on November 19, 2005, when,
18 as part of an ongoing Montclair, California Police Department narcotics investigation, police
19 officers searched Respondent's home and discovered that it was being used for the distribution
20 and manufacturing of a controlled substance. Nineteen vials of hydromorphone and other
21 narcotics were found in a related search of Respondent's vehicle, along with several syringes.

22 b. On or about February 21, 2007, after pleading nolo contendere,
23 Respondent was convicted of one misdemeanor count of violating Penal Code section 484(a)
24 (theft of property) in the criminal proceeding entitled *The People of the State of California v.*
25 *Alea Sharmane Fultz* (Super. Ct., Los Angeles County, 2007, No. 6JB09741). Respondent was
26 placed on court probation for a period of three (3) years. The circumstances surrounding the
27 conviction are that on or about December 13, 2006, while at the Target store in West Covina,
28 California, Respondent placed electronic items into her shopping cart, concealed the electronic

1 items with a Target shopping bag, and left the store without paying for the concealed
2 merchandise.

3 c. On or about February 21, 2007, after pleading nolo contendere,
4 Respondent was convicted of one misdemeanor count of violating Business and Professions
5 Code section 4324(a) (unlawfully forging a prescription) in the criminal proceeding entitled *The*
6 *People of the State of California v. Alea Sharmane Fultz* (Super. Ct., Los Angeles County, 2007,
7 No. 6JB05960). Respondent was ordered to complete twenty (20) days of community service
8 and placed on probation for a period of three (3) years. The circumstances surrounding the
9 conviction are that on or about May 17, 2006, Respondent presented a forged prescription for
10 Vicodin to the Sav-on Pharmacy in La Puente, California, from the stolen prescription pad of Dr.
11 R. Barajas, in La Puente, California.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Falsifying or Making Grossly Incorrect Hospital Records)**

14 17. Respondent's license is subject to disciplinary action under Code section
15 2878, subdivision (a), and section 2878.5, subdivision (e), in that while working as a per diem
16 nurse, at Riverside Community Hospital in Riverside, California CA (RCH), and Pomona Valley
17 Hospital Medical Center in Pomona, California (PVHMC), Respondent falsified and/or made
18 grossly incorrect entries in hospital and patient records pertaining to controlled substances and
19 dangerous drugs.

20 **Riverside Community Hospital.**

21 a. On August 14, 2006, at 1955 hours, Respondent withdrew 2 mg. of
22 Dilaudid for a patient known as Patient 2, but never documented it as being given to the patient.

23 b. Also on August 14, 2006, for Patient 3, Respondent withdrew 2 mg. of
24 Dilaudid at 2234 hours, but never documented it as being given to the patient.

25 c. On August 15, 2006, for Patient 3, Respondent withdrew 2 mg. of
26 Dilaudid at 0434 hours, but never documented it as being given to the patient.

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d. During the two-day period of August 14-15, 2006, Respondent failed to perform the required scanning of patient wristbands and medication information in fifteen (15) out of twenty-six (26) instances.

Pomona Valley Hospital Medical Center:

18. While working as a per diem nurse at PVHMC, Respondent falsified and/or made grossly incorrect entries in hospital and patient records pertaining to controlled substances and dangerous drugs.

a. On November 29, 2005, although physician orders called for a 1-mg. dosage of Dilaudid every two hours, Respondent withdrew 2 mg. of Dilaudid for Patient A. At 1917 hours, Respondent documented giving the medication to Patient A, but failed to document any waste.

b. On November 29, 2005, at 2101 hours, Respondent withdrew 2 mg. of Dilaudid for Patient A. At 1917 hours, Respondent documented giving the medication to Patient A, but failed to document any waste.

c. On November 30, 2005, at 2328 hours, Respondent withdrew 2 mg. of Dilaudid for Patient A. At 1917 hours, Respondent documented giving the medication to Patient A, but failed to document any waste.

d. On November 30, 2005, at 0202 hours, Respondent withdrew 2 mg. of Dilaudid for Patient A. At 1917 hours, Respondent documented giving the medication to Patient A, but failed to document any waste.

e. On November 30, 2005, at 0454 hours, Respondent withdrew 2 mg. of Dilaudid for Patient A. At 1917 hours, Respondent documented giving the medication to Patient A, but failed to document any waste.

f. On November 30, 2005, at 0619 hours, Respondent withdrew 2 mg. of Dilaudid for Patient A. At 1917 hours, Respondent documented giving the medication to Patient A, but failed to document any waste.

g. On November 26, 2005, although physician orders called for a 1-mg. dosage of Dilaudid every two hours, Respondent withdrew 2 mg. Dilaudid for Patient B.

1 However, Respondent never documented giving any of this medication to Patient B, and she also
2 failed to document any waste.

3 h. On November 27, 2005, although physician orders called for a 1-mg.
4 dosage of Dilaudid every two hours, Respondent withdrew 2 mg. Dilaudid for Patient B at
5 1933 hours and again at 2147 hours. Documentation indicated that the medication was given to
6 Patient B, but no waste was documented.

7 i. On November 26, 2005, although physician orders called for a 1-mg.
8 dosage of Dilaudid every two hours, Respondent withdrew 2 mg. Dilaudid for Patient C at
9 0209 hours and again at 0434 hours. Respondent documented giving the medication to Patient
10 C, but no waste was documented.

11 j. On November 8, 2005, although physician orders called for a 1-mg.
12 dosage of Dilaudid every two hours, Respondent withdrew 2 mg. Dilaudid for Patient E at
13 1938 hours. Respondent documented giving the medication to Patient C, but no waste was
14 documented.

15 k. On November 8, 2005, although physician orders called for a 1-mg.
16 dosage of Dilaudid every two hours, Respondent withdrew 2 mg. Dilaudid for Patient E at
17 2357 hours. Respondent documented giving the medication to Patient C, but no waste was
18 documented.

19 l. On November 8, 2005, although physician orders called for a 1-mg.
20 dosage of Dilaudid every two hours, Respondent withdrew 2 mg. Dilaudid for Patient E at
21 0152 hours. Respondent documented giving the medication to Patient C, but no waste was
22 documented.

23 m. On November 8, 2005, although physician orders called for a 1-mg.
24 dosage of Dilaudid every two hours, Respondent withdrew 2 mg. Dilaudid for Patient E at
25 0425 hours. Respondent documented giving the medication to Patient C, but no waste was
26 documented.

27 n. On November 8, 2005, although physician orders called for a 1-mg.
28 dosage of Dilaudid every two hours, Respondent withdrew 2 mg. Dilaudid for Patient E at

1 0548 hours. Respondent documented giving the medication to Patient C, but no waste was
2 documented.

3 o. On November 8, 2005, although physician orders called for a 1-mg.
4 dosage of Dilaudid every two hours, Respondent withdrew 2 mg. Dilaudid for Patient C at 2140
5 hours. Respondent failed to document giving any medication to the patient, and no waste was
6 documented.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Obtained Controlled Substances by Fraud or Deceit)**

9 19. Respondent's license is subject to disciplinary action under section 2878,
10 subdivision (a) of the Code, as defined in section 2878.5, subdivision (a), for violating Health
11 and Safety Code section 11173, subdivision (a), in that while working as a per diem nurse at
12 RCH and PVHMC, Respondent obtained controlled substances by fraud or deceit. Complainant
13 refers to, and by this reference incorporates the allegations in paragraphs 15c, 16 and 17,
14 inclusive, as though set forth fully.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Commission of Dishonest Acts)**

17 20. Respondent's license is subject to disciplinary action under section 2878,
18 subdivisions (a) and (j) of the Code, in that Respondent committed dishonest acts. Complainant
19 refers to, and by this reference incorporates the allegations of paragraphs 15 through 17,
20 inclusive, as though set forth fully.

21 **DISCIPLINE CONSIDERATIONS**

22 21. To determine the degree of discipline, if any, to be imposed on
23 Respondent, Complainant alleges that on or about August 19, 1998, after pleading nolo
24 contendere, Respondent was convicted of one misdemeanor count of violating Penal Code
25 section 484(a) (theft of property) in the criminal proceeding entitled *The People of the State of*
26 *California v. Alea Sharmane Fultz* (Super. Ct., Los Angeles County, 1998, No. 8JM05732).
27 Respondent was placed on court probation for a period of three (3) years. The circumstances
28 surrounding the conviction are that on or about May 10, 1998, while at the Target store in West

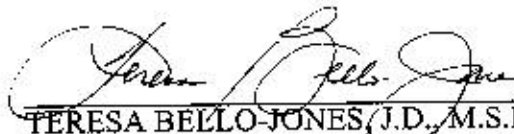
1 Covina, California, Respondent stole a woman's night gown, a Disney Movie, and a pair of
2 women's shoes.

3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein
5 alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

- 6 1. Revoking or suspending Vocational Nurse License No. VN 186791, issued
7 to Respondent.
- 8 2. Ordering Respondent to pay the Bureau the reasonable costs of the
9 investigation and enforcement of this case, pursuant to Business and Professions Code section
10 125.3.
- 11 3. Taking such other and further action as deemed necessary and proper.

12 DATED: November 4, 2008

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15 
16 TERESA BELLO-JONES, J.D., M.S.N., R.N.
17 Executive Officer
18 Bureau of Vocational Nursing and Psychiatric Technicians
19 Department of Consumer Affairs
20 State of California
21 Complainant
22
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**DECLARATION OF SERVICE BY CERTIFIED MAIL
AND
DECLARATION OF SERVICE BY FIRST CLASS MAIL**

Case Name: In the Matter of the Accusation Against:
Alea Sharmane Fultz

Case No.: VN-2005-1283

I declare:

I am employed in the County of Sacramento, California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 2535 Capitol Oaks Drive, Suite 205, Sacramento, California 95833-2945.

On November 4, 2008, I served the attached:

ACCUSATION, STATEMENT TO RESPONDENT, REQUEST FOR DISCOVERY
NOTICE OF DEFENSE (2 COPIES), AND COPY OF GOVERNMENT CODE SECTIONS
11507.5, 11507.6 AND 11507.7.

in said cause, by placing a true copy thereof enclosed in two separate sealed envelopes with postage thereon fully prepaid by Certified Mail and First Class Mail, in the United States mail at Sacramento, California, addressed as follows:

NAME/ADDRESS

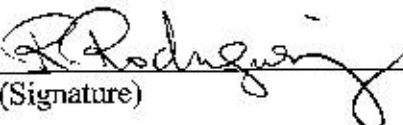
Alea Sharmane Fultz
750 E. Puente Street
Covina, CA 91723

CERTIFIED MAIL NUMBER

7007 2680 0000 3858 7524

I declare under penalty of perjury the foregoing is true and correct, and that this declaration was executed at Sacramento, California on November 4, 2008.

Regina Rodriguez
(Typed Name)


(Signature)

cc: Michel W. Valentine, Deputy Attorney General